In the Supreme Court of the United States

OCTOBER TERM, 1963.

No. [redacted] 122

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION 1377, AFL-CIO,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

REPLY BRIEF SUPPORTING THE PETITION FOR WRIT OF CERTIORARI

To the United States Court of Appeals For the Sixth Circuit.

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OCTOBER TERM, 1963.

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NATIONAL LABOR RELATIONS BOARD,

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REPLY BRIEF SUPPORTING THE PETITION FOR WRIT OF CERTIORARI

To the United States Court of Appeals For the Sixth Circuit.

To the Honorable The Chief Justice and the Associate Justices of the Supreme Court of the United States:

We file this reply brief solely because of the statement in the Solicitor's brief as follows:

> "There is no substance to petitioner's contention (Pet. 24-27) that the finding of an unfair labor practice in this case was barred by Section 10(b) of the Act. That section provides that 'no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board.' Contrary to petitioner's assumption, the imposition of a fine for nonattendance was not an unfair labor practice by itself."

This has been true solely because *no one filed such a charge*. If the charging parties in Leece-Neville had been advised by their counsel (and they had an attorney, R. 70,

108, 118, 146, 155) to file charges that the dollar "fine" was a fine and was an unfair labor practice presumably the Board would do what it has done now and issued complaints upon the same charges. Commerce Clearing House, Inc. (CCH) Report of July 9, 1964, carry the following story:

> "The question of legality of union fines against members, in one case for crossing picket lines during a strike, and in two other cases for filing unfair labor practice charges against their unions, is scheduled for oral argument before the National Labor Relations Board on July 9, 1964.
>
> Charges filed with NLRB regional offices by an employer against Locals 248 and 401 of the United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, and by members of Locals 138 and 925 of the International Union of Operating Engineers, AFL-CIO, allege that the fines in all instances violate the National Labor Relations Act's Section 8(b)(1)(A) prohibitions against coercion of employees. *Formal complaints have been issued against the unions.* * * * (Emphasis added.)
>
> In the case involving Locals 248 and 401 of the United Automobile Workers, over 200 employees of Allis-Chalmers Manufacturing Company, at the company's West Allis and LaCrosse, Wisconsin, plants were fined by the union for crossing picket lines during strikes at the plants. The fines ranged from $20 to $100. Twenty of the workers had paid the fines up to the time of the hearings on the charges filed with the NLRB by the company. The union also had filed suit against employees in state court in an attempt to collect the fines. The suit was still pending at the time NLRB Trial Examiner Harold X. Summers held hearings in the case.
>
> Mr. Summers recommended that the NLRB's five-member Board dismiss the complaints against the two United Automobile Workers' locals.

In the Local 138, Operating Engineers, case Charles S. Skura, member of a 'reform group' within the Local, charged that he had been fined $200 because he had filed charges against the Local alleging that it had unlawfully refused to refer him for employment through its exclusive hiring hall. Skura's charge against the Local was dismissed by the NLRB's New York City Regional Office. However, after the Local fined him, Skura filed charges that the fine violated the Act's Section 8(b)(1)(A).

Trial Examiner Benjamin Lipton recommended that the Board issue an order against Local 138 requiring it to reimburse Skura for the fine against him, and which he paid, plus 6 percent interest.

In the case of Operating Engineers' Local 925, William J. Martin charged that the Local had fined him $450 for filing charges with the NLRB that H. B. Roberts, the Local's business manager, had caused him to be dismissed from a job with the Wellman and Lord Engineering Company on a project at Mulberry, Florida. Martin's charge related to the dismissal was dismissed by the NLRB's Tampa, Florida, office. Martin then filed charges against the Local after he was fined. The parties waived hearings in this case."

We apologize for quoting a news source but we don't have time to do otherwise and this source has always been accurate. We respectfully suggest again as we did in our petition for certiorari that the six months' limitation on filing charges bars the complaint issued herein in 1961 which was based primarily on what the Board has now held were fines which were instituted in 1958. Further, since without the "fine" issue the entire complaint fails, because then every dischargee was delinquent more than the three months' grace period accorded delinquent employees and the complaint should be dismissed in its entirety.

WHEREFORE, Petitioner prays that its petition for certiorari be granted.

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